

**Comments of Brian Mitchell, Wisconsin Car Rental Alliance  
Appearing for information on SB530  
Senate Committee on Labor, Elections and Urban Affairs  
March 5, 2008**

Good morning Mr. Chairperson and members of the Committee. I'm Brian Mitchell on behalf of the Wisconsin Car Rental Alliance, appearing for information on SB530.

We are a statewide trade association representing primarily franchisees and independent operators in the car rental business. My comments today won't address public safety or any other objectives of the bill; we do however have a basic concern with the section of the bill that relates to allowable defenses that an owner can offer to a violation of an ordinance enacted under this legislation.

Under s.349.107(3)(d)3. at the bottom of page <sup>15</sup> there is language that permits an owner of a leased vehicle, as a defense to a violation, to provide the authorities with the name and address of the lessee of the vehicle. While the intent here may have been to provide this protection to the owners of both leased and rented vehicles, we believe this needs to be made clear. Rental agreements are usually for 30 days or less while leases cover the use of a vehicle for a longer period. In both instances, someone other than the owner (ie. the lessee or renter) may have been operating the vehicle at the time of the violation and we believe it is fair in both cases that the owner should be afforded the opportunity to provide that information.

We thank the Committee for your consideration of our comments and we would welcome the opportunity to work with the author of the bill to clarify this point. I'd be happy to try to address any questions from Committee members.

department, the department may direct a traffic officer to take possession thereof and return them to the department.

(2) Any person who intentionally fails or refuses to return a license and registration plate or plates as required by this section may be required to forfeit not more than \$100.

**History:** 1971 c. 278; 1977 c. 29 ss. 1465, 1654 (7) (a), (c); 1977 c. 43, 203; 1985 a. 29; 1989 a. 72; 1997 a. 84.

**344.46 Transfer of vehicle ownership to defeat purpose of chapter.** (1) No owner of a motor vehicle involved in an accident in this state which is reportable under s. 346.70 shall transfer the ownership or registration of any vehicle whose registration is subject to suspension or revocation under this chapter until all of the applicable provisions of this chapter has been complied with or until the secretary is satisfied that such transfer is proposed in good faith and not for the purpose or with the effect of defeating the purposes of this chapter.

(2) Any person violating this section may be required to forfeit not more than \$200.

(3) This section does not apply to or affect the registration of any vehicle sold by a person who, under the terms or conditions of any written instrument giving a right of repossession, has exercised such right and has repossessed such vehicle from a person whose registration has been suspended or revoked under this chapter.

**History:** 1971 c. 278; 1977 c. 29 s. 1654 (7) (c); 1991 a. 269; 1997 a. 84; 1999 a. 80, 186.

**344.48 Forged proof.** (1) No person shall:

(a) Forge or, without authority, sign any notice provided for in s. 344.14 or 344.15 (4), or both, to the effect that a policy or bond is in effect or, knowing or having reason to believe that the notice has been forged or signed without authority, file or offer the notice for filing; or

(b) Forge or, without authority, sign any evidence of proof of financial responsibility or, knowing or having reason to believe that such evidence has been forged or signed without authority, file or offer such evidence for filing.

(c) Sign or file the affidavit mentioned in s. 344.15 (4), knowing that it contains a false statement.

(2) Any person violating this section may be fined not more than \$10,000 or imprisoned for not more than 9 months or both.

**History:** 1985 a. 29; 1997 a. 283; 2001 a. 109.

## SUBCHAPTER V

### FINANCIAL RESPONSIBILITY FOR RENTED AND HUMAN SERVICES VEHICLES

**344.51 Financial responsibility for domestic rented or leased vehicles.** (1g) In this section:

(a) "Lessor" means a person who, for compensation, leases a motor vehicle to a lessee to be operated by or with the consent of the lessee or who acquires a contract for the leasing of a motor vehicle from another person.

(b) "Motor vehicle" means a self-propelled vehicle.

(c) "Rental company" means a person who, for compensation, rents a motor vehicle to a renter to be operated by or with the consent of the renter or who acquires a contract for the renting of a motor vehicle from another person.

(1m) No lessor or rental company may for compensation rent or lease any motor vehicle unless there is filed with the department on a form prescribed by the department a certificate for a good and sufficient bond or policy of insurance issued by an insurer authorized to do an automobile liability insurance or surety business in this state. The certificate shall provide that the insurer which issued it will be liable for damages caused by the negligent operation of the motor vehicle in the amounts set forth in s. 344.01 (2) (d). No lessor or rental company complying with this subsection,

and no lessor or rental company entering into or acquiring an interest in any contract for the rental or leasing of a motor vehicle for which any other lessor or rental company has complied with this subsection, is liable for damages caused by the negligent operation of the motor vehicle by another person.

(2) Any lessor or rental company failing to comply with this section is directly liable for damages caused by the negligence of the person operating such rented or leased vehicle, but such liability may not exceed the limits set forth in s. 344.01 (2) (d) with respect to the acceptable limits of liability when furnishing proof of financial responsibility.

(3) Any person violating this section may be required to forfeit not more than \$200.

**History:** 1971 c. 278; 1977 c. 29 s. 1654 (7) (a); 1979 c. 102; 1995 a. 329; 1997 a. 48.

A lessor is not liable to the lessee's insurer for monies that the insurer paid to a victim of the lessee's negligence. *American Family Mutual Insurance Co. v. Reciprocal Ins. Service Exchange Mgt. Co.* 111 Wis. 2d 308, 330 N.W.2d 223 (Ct. App. 1983).

When a lessee's insurance was insufficient to cover all damages, the lessor's errors and omissions policy was required to cover remaining damages. *Germanotta v. National Indemnity Co.* 119 Wis. 2d 293, 349 N.W.2d 733 (Ct. App. 1984).

Sections 344.30 and 344.16 permit car rental agencies to satisfy their obligation of proving financial responsibility by filing a certificate of self-insurance and receiving a certificate from DOT confirming their ability to pay. A self-insured agency is not the equivalent of an uninsured driver as it is not otherwise liable for its lessee's negligence. Its liability is limited to the amount an insurer would be required to pay, which under s. 344.01 (2) (d) is fixed at \$25,000. *Boatright v. Spiewak*, 214 Wis. 2d 507, 570 N.W.2d 897 (Ct. App. 1997), 97-0036.

No statute requires a self-insured entity under s. 344.16 to provide uninsured motorist coverage as part of the optional insurance it offers to its customers. *Prophet v. Enterprise Rent-A-Car Company, Inc.* 2000 WI App 171, 238 Wis. 2d 150, 617 N.W.2d 225, 99-0776.

**344.52 Financial responsibility for foreign rented vehicles.** (1g) In this section, "motor vehicle" means a self-propelled vehicle.

(1r) Whenever any motor vehicle rented for compensation outside this state is operated in this state, the lessor of the motor vehicle is directly liable for all damages to persons or property caused by the negligent operation of the rented vehicle unless, at the time when the damage or injury occurs, the operation of the rented vehicle is effectively covered by a policy of insurance that provides coverage at least in the amounts specified in s. 344.01 (2) (d) for property damage, personal injury, or death suffered by any person on account of the negligent operation of the rented vehicle. The amount of liability imposed upon the lessor by this section in the absence of insurance coverage shall not exceed the limits set forth in s. 344.01 (2) (d) with respect to the acceptable limits of liability when furnishing proof of financial responsibility. The fact that the rented vehicle is operated in this state contrary to any understanding or agreement with the lessor is not a defense to any liability imposed by this section.

(2) (a) If a motor vehicle rented for compensation outside this state is operated in this state, the lessor of the vehicle is considered to have irrevocably appointed the secretary as the agent or attorney upon whom legal process may be served in any action or proceeding against the lessor or the lessor's personal representative, successors, or assigns, growing out of the operation of the rented motor vehicle in this state, which appointment is binding upon the lessor's personal representative, successors, or assigns. The operation of the rented motor vehicle in this state is a signification of the lessor's agreement that legal process or notice may be served upon the lessor or the lessor's personal representative, successors, or assigns and that process or notice so served has the same legal force as if personally served upon them in this state.

(b) Service of process or notice under par. (a) shall be made as provided in s. 345.09. This section does not affect the right to serve process or notice on the nonresident operator of the rented motor vehicle as provided in s. 345.09.

**History:** 1977 c. 29; 2001 a. 102; 2005 a. 149.

**344.55 Insurance for human service vehicles.** (1) No motor vehicle may be used as a human service vehicle unless a policy of bodily injury and property damage liability insurance, issued by an insurer authorized to transact business in this state,